

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
6

7 GREG McBROOM, *et al.*,)
8 vs.) Plaintiffs,) Case No. 2:10-cv-00093-JCM-PAL
9)) **ORDER**
10 DHI MORTGAGE COMPANY, LTD., *et al.*,) (Motion to Compel Discovery - #13)
11) Defendants.)
12

13 The court conducted a hearing on Defendant Wells Fargo's Motion to Compel Discovery (Dkt.
14 #13) on July 6, 2010 at 10:45 a.m. Cassie Stratford appeared on behalf of Defendant Wells Fargo.
15 Kevin Hahn appeared telephonically on behalf of Defendant MTC Financial Inc. Neither the Plaintiffs
16 nor their counsel appeared.

17 The Motion seeks to compel the Plaintiffs to produce the mandatory disclosures required by
18 Federal Rules of Civil Procedure 26(a)(1). The parties conducted their Rule 26(f) conference March 5,
19 2010. Wells Fargo provided copies of its mandatory disclosures on March 19, 2010. However, the
20 Plaintiffs have not produced their mandatory disclosures. The motion, which is supported by the
21 declaration of counsel for Wells Fargo, indicates the efforts made by counsel for Wells Fargo to obtain
22 Plaintiffs' mandatory disclosures without the necessity of filing this motion. The Plaintiffs have not
23 responded to the motion or served the disclosures since the motion was filed.

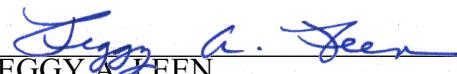
24 Federal Rules of Civil Procedure 26(a) requires a party to make the initial disclosures described
25 by Rule 26(a)(1)(A)(i-iv) without awaiting a discovery request. The Plaintiffs have not served the
26 required disclosures or responded to the motion to compel. Rule 37(a)(3)(A) permits a party to file a
27 motion to compel the disclosures required by Rule 26(a). Local Rule 7-2(d) provides that "[t]he failure
28 of an opposing party to file points and authorities in response to any motion shall constitute a consent to

1 the granting of the motion.” The motion to compel is therefore GRANTED and Plaintiffs are
2 compelled to provide the initial disclosures required by Rule 26(a). Additionally, Rule 37(a)(5)(A)
3 provides, if a motion to compel initial disclosures is granted “the court must, after giving an opportunity
4 to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney
5 advising that conduct, or both, to pay the movant’s reasonable expenses incurred in making the motion,
6 including attorney’s fees” unless any of the provisions of Rule 37(a)(5)(A)(i-iii) apply. Accordingly,
7 having reviewed and considered the matter,

8 IT IS ORDERED that:

- 9 1. Wells Fargo’s Motion to Compel Discovery (Dkt. #13) is **GRANTED** and Plaintiffs
10 shall serve the mandatory disclosures required by Rule 26(a)(1) no later than July 16,
11 2010.
- 12 2. Counsel for Wells Fargo shall have until July 8, 2010 in which to file a memorandum of
13 costs and attorney’s fees. The memorandum shall contain an itemization of attorney’s
14 fees and costs claimed; the time spent in preparing the motion, notice of non-opposition
15 and attending the hearing; counsel’s hourly rate; and whether the hourly rate charged in
16 this case is counsel’s customary fee for similar services.
- 17 3. Plaintiffs shall have ten days from service of the memorandum of costs and fees in
18 which to file a response challenging the reasonableness of the costs and fees sought and
19 asserting any of the grounds permitted by Rule 37(a)(5)(A)(i-iii) why sanctions should
20 not be imposed.
- 21 4. Failure to timely comply with this order may result in the imposition of additional
22 sanctions up to and including case dispositive sanctions for failing to cooperate in
23 discovery and failing to comply with the court’s order.

24 Dated this 6th day of July, 2010.

25
26 
27 PEGGY A. TEER
28 UNITED STATES MAGISTRATE JUDGE